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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,969	06/23/2003	N. Douglas Owens	MOD-065-01	8819
27268	7590	09/09/2005	EXAMINER	
BAKER & DANIELS LLP 300 NORTH MERIDIAN STREET SUITE 2700 INDIANAPOLIS, IN 46204			JACKSON, ANDRE L	
			ART UNIT	PAPER NUMBER
			3677	

DATE MAILED: 09/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

*Office Action Summary*

Application No.

10/601,969

Applicant(s)

OWENS, N. DOUGLAS

Examiner

Andre' L. Jackson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 21-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 21-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

DETAILED ACTION

*Continued Examination Under 37 CFR 1.114*

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 27, 2005 has been entered.

*Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-12 and 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's admitted prior art figures 1-4. Applicant's admitted prior art disclose a trolley (100) for use in a movable wall panel system (4) having multiple wall panels (2) supported by and movable along an overhead track (5) having X-intersections (7) and defining a bottom wall, the trolley comprising:

a trolley body; a hanging device (63) attached to the trolley body engageable to the movable wall panel; four trolley wheel assemblies (102) rotatably supported by the trolley body and engageable and movable within the overhead track on a plane coincident with the bottom wall of the track such that the four trolley wheels are adapted to travel atop the bottom wall of

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the track; two of the four trolley wheel assemblies being constructed to a first side of the trolley body, the other two of the trolley wheel assemblies being constructed to a second side of the trolley body; and two auxiliary wheels (101) rotatably supported on the trolley body such that the two auxiliary wheels are engageable and moveable within the overhead track, the two auxiliary wheels being constructed to the trolley body and positioned on opposite sides and opposite ends (non-collinear) of the trolley body relative to one another, such that the two auxiliary wheels are adapted to travel above the bottom wall of the track. However, applicant's prior art does not specifically disclose at least one of the auxiliary wheels being dimensioned smaller than any of the four trolley wheels as claimed. Monne (Figs. 1-3) teaches a vehicle track system for use with a bearing load system having multiple load bearing systems supported by and movable along an overhead track (7) having intersections, the vehicle track system comprising, a vehicle track plate body (5); a hanging device (2) attached to the vehicle track body engageable to the load bearing system via an eyelet coupling (17); a four wheel assembly (4) rotatably supported by the vehicle track body and engageable and movable within the overhead track; and at least two auxiliary wheels (20) engageable and moveable with the overhead track, at least one of the auxiliary wheels being dimensioned smaller than any of the four vehicle track wheel assemblies providing an increase in maneuverability, stability and uniform load distribution as well as the smaller auxiliary wheels/rollers affords decreased frictional forces, thus an overall smoother and quieter vehicle track assembly. Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to modify the prior art (Figs. 1-4) trolley assembly to incorporate a change in dimension of at least one auxiliary wheel as taught by Monne to provide an improved trolley providing an increase in maneuverability, stability and

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uniform load distribution, wherein the smaller auxiliary wheel(s)/roller(s) affords decreased friction, thus an overall smoother and quieter trolley assembly.

As to claims 4, 5, 9, 10 and 24 are wedged-shaped spacer plates (Fig. 1B) attach the auxiliary wheels to the trolley body.

### ***Response to Applicant's Arguments***

Applicant's arguments filed in the Amendment of January 10, 2005 have been fully considered but they are not persuasive. In response to applicant's arguments presented on pages 6-8 and the amendment to the claims, the prior art figures 1-4 in combination with Monne has been used concurrently as an obvious-type rejection of applicant's claims. Accordingly, claims 1-12 and 21-24 are found to be unpatentable over the prior art made of record.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. In particular Fageol discloses a rail/highway unit including a trolley structure similar to applicant's claims interpreted broadly. Hence, Fageol may be used singly or in combination to meet the limitations of applicant's claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre' L. Jackson whose telephone number is (571) 272-7067. The examiner can normally be reached on Mon. - Fri. (9:30 am - 6 pm).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy J. Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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ROBERT J. SANDY  
PRIMARY EXAMINER